



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE EO Examinations Mail Stop 4920 DAL
1100 Commerce St.
Dallas, Texas 75242

501.03-00

Date: June 16, 2010

Release Number: 201037031
Release Date: 9/17/10
LEGEND
ORG = Organization name
XX = Date Address = address

Taxpayer Identification Number:
Person to Contact:
Employee Identification Number:
Employee Telephone Number:
(Phone)
(Fax)

ORG
ADDRESS

CERTIFIED MAIL – RETURN RECEIPT

Dear

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated May 19XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective August 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

Organizations described in IRC 501(c)(3) and exempt under section 501(a) must be both organized and operated exclusively for exempt purposes. You have failed to produce documents to establish that you are operated exclusively for exempt purposes and that no part of your net earnings inures to the benefit of private shareholders or individuals. You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures, or activities as required by sections 6001 and 6033(a)(1) of the Code and Rev. Rul. 59-95, 1959-1 C.B. 627.

Contributions to your organization are no longer deductible under IRC §170 after August 1, 20XX.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending July 31, 20XX, and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to the United States Tax Court at the following address:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TEGE: EO Examinations
1100 Commerce Street
Dallas TX 75242

January 25, 2010

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Acting Director, EO Examinations

Enclosures:
Publications 892; 3498
Form 6018, Form 886
Report Of Examination

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit 1
Explanation of Items		
Name of Taxpayer: ORG EIN:		Year/Period Ended 20XX07; 20XX07; 20XX07; 20XX07

LEGEND

ORG = Organization name XX = Date Address = address City = City
State = state President = president DIR-1 = 1st DIRECTOR

ISSUE

Whether an organization's exempt status under Internal Revenue Code § 501(c)(3) should be revoked because it has failed to provide books, records and other documents in accordance with Internal Revenue Code § 6001 and Treasury Regulations §1.6001-1(e).

FACTS

The case was assigned to the field on February 26, 20XX based on an outside referral. ORG did not file Form 990 in fiscal years 20XX; 20XX; 20XX and 20XX although research confirms the EO received revenues in excess of \$ in each of these fiscal tax periods.

In March 20XX website research identifies the ORG as sellers of artworks created by President. *As shown on President's EBay website*, the EO is listed as the organization where payment for artwork should be made. Additionally the EO terms and conditions of sale of the artwork include:

- This work is original.
- This work is certified to be free from all defects due to faulty craftsmanship or faulty materials for a period of twelve month from date of sale. If flaws shall appear during this time, repairs shall be made by us.
- **Copyright** of the work is held by the ORG.
- Resale of transfer of work requires that the ORG **be informed of the new owner and the price of the sale**. Should the price be more than \$ over the original price stated herein, according to State and State state law, 10% of amount over the original price shall be given to artist by seller. These terms only apply to sales made in the states of State and State.
- The ORG **shall have the right to** photograph, scan, or through any other means of media reproduce the piece, if necessary, for publicity or reproduction purposes. You are only buying the original, not the reproduction rights.
- The ORG **shall have the right to** include the artwork in retrospective shows **indefinitely**, upon 60 days notice. We will pay for any necessary shipping or insurance costs for participation in retrospective shows.
- If artwork is rented out by purchaser, ORG **shall receive 25%** of rental income.
- Artwork can not be exhibited in public **without written approval** of the ORG.

The above information supports the Internal Revenue Service's decision to request additional information from the ORG to determine if the EO had a filing requirement and if unrelated business income existed in the audited period. If filing requirements existed, it was TEGE division's responsibility to secure the required delinquent returns.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit 1
Explanation of Items		
Name of Taxpayer: ORG EIN:		Year/Period Ended 20XX07; 20XX07; 20XX07; 20XX07

On April 3, 20XX after making several telephone attempts for contact, letter 3611 our initial appointment (when no prior telephone contact with taxpayer has been made) was prepared and mailed certified on April 7, 20XX to the EO office address located at Address, City, State. The updated address was secured through a public website named Accurant. The appointment was scheduled for May 4, 20XX at 1:00PM. A return receipt was received on April 24, 20XX signed and dated April 10, 20XX.

On May 4, 20XX I arrive at the address referenced above to meet with DIR-1 as outlined in my initial appointment letter. The only organization located at this address was US Post Office Inc a mail box service provider. The attendant on duty confirmed the address and said this was the only entrance for that address. I also visited the agent for service of process address at Address, City, State located nearby. There were no listings for DIR-1 or the EO at that address.

Further research confirmed the ORG received approximately \$ in revenue for the period 20XX-20XX resulting in a Form 990 filing requirement in fiscal tax periods 20XX, 20XX, 20XX, and 20XX. Contributions were made by a City non-profit. (See tax return copies in file)

Additional research about the organization's current location produced no additional information.

The EO was notified by mail on June 18, 20XX that third party contacts would be employed. On July 1, 20XX per I.R.M. 4.11.57 a third party letter was mailed. The envelope was returned unopened by the postal service to TEGE on August 14, 20XX.

On August 12, 20XX the post office box services manager was interviewed. The manager stated "the ORG is a current client. The address given by the manager as Address, City, State is the only address on file. The client pays their bill and picks up their mail. As long as the client pays the bill, additional address information is not required."

On September 1, 20XX a 90 day demand to file letter was prepared per I.R.M. 4.75.22 and mailed certified to DIR-1, executive director, ORG at Address, City, State. A signed return receipt was received on September 10, 20XX. The receipt was signed by the manager of the Postal Service on September 2, 20XX. Periodic telephone calls were made monthly to make contact with the taxpayer without results. The 90 day period expired on December 1, 20XX. To date DIR-1 nor the EO have not responded to our attempts to contact them.

LAW

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 1
Name of Taxpayer: ORG EIN:		Year/Period Ended 20XX07; 20XX07; 20XX07; 20XX07

Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep such records, render such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Section 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treasury Regulation § 1.6001-1(a) in conjunction with § 1.6001-1(c) provides that every organization exempt from tax under section 501(a) of the Code and subject to the tax imposed by section 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by section 6033.

Treasury Regulation § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treasury Regulation § 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Revenue Ruling 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit 1
Explanation of Items		
Name of Taxpayer: ORG EIN:		Year/Period Ended 20XX07; 20XX07; 20XX07; 20XX07

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Treasury Regulation 1.501(c)(3)-1(d)(1)(ii) provides an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

CONCLUSION

Based on the facts presented above and no response from the taxpayer, it is the Internal Revenue Service's position that the EO failed to meet the reporting requirements under IRC § 6001 and § 6033 and does not qualify as an organization exempted from federal income tax under IRC § 501(c)(3). Accordingly, the proposed revocation of the ORG's tax exempt status is effective beginning August 1, 20XX.

A Form 1120 U.S. Income Tax Return must be filed for fiscal tax years ending July 31, 20XX, 20XX, 20XX, and 20XX. Subsequent returns, if any, should be sent to the following mailing address:

The effective date of the revocation will be the first day after the end of the 90-day period (91st day).